IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

LETTERS PATENT APPEAL NO.175 OF 2006
IN
WRIT PETITION NO.7300 OF 2003

Somnath Tulshiram Galande, Pune ...Appellant
V/s.
Presiding Officer, .
IInd Labour Court, Pune & Ors. ...Respondents

Mr.Somnath T. Galande, Appellant in person. .
Mr.P.K. Rele, Sr. Advocate, with Mr.Piyush Shah, Advocate, for Respondent Nos.2A, 2B, 2F, 2G, 3 and 4.

CORAM : J.N. PATEL &
A.A. SAYED, JJ.
DATE : 6TH JULY, 2007.

P.C. :

1. Heard the Appellant in person and the learned Counsel for the Respondents.

2. This Letters Patent Appeal has been filed by the Appellant who came to be employed by the Respondent as Head of Quality Assurance Department by letter of appointment dated 25.04.1994. The services of the Appellant came to be terminated by the Respondent w.e.f. 08.09.1995 and, therefore, the Appellant raised a dispute which was referred to the Deputy Labour Commissioner under I.D. Act, 1947 and as the conciliation failed, the Deputy Commissioner of Labour, Pune by his order dated 18.10.1997 referred the dispute

to the Labour Court, Pune.

3. The question referred to the Labour Court, Pune, was "whether the second party Somnath Tulshiram Galande has demanded reinstatement with full back wages and continuity of service w.e.f. 09.09.1995." Though we do not want to express any opinion on the question which was formulated and referred for adjudication by the Labour Court, Pune, but in substance the grievance of the Appellant was that his services have been terminated without complying with the mandatory provisions of Section 25(f) of the I.D. Act and, therefore, he is entitled for reinstatement with full back wages and continuity of service.

4. The Labour Court, Pune, after recording the evidence, passed an award on 29.08.2002 by which the reference came to be dismissed. The Labour Court came to the finding that the Appellant has failed to prove that he is a workman as defined under Section 2(s) of the I.D. Act and, therefore, his termination cannot be held to be illegal and he is not entitled for the reliefs sought i.e. reinstatement with full back wages and continuity of service.

5. The Appellant challenged the award of the

Labour Court, Pune, by preferring a Writ Petition before the learned Single Judge of this Court. The learned Single Judge dismissed the Writ Petition by his order dated 19.04.2006 in limine, which is reproduced hereunder for the sake of convenience :-

> "Heard learned Counsel for the Petitioner. No case is made out to interfere with the impugned order. Petition is, therefore, dismissed in limine with no order as to costs. The view taken by the Court below is a reasonable and possible view."

6. On going through the impugned award passed by the Labour Court and the evidence on record, we are of the view that the learned Single Judge has summarily dismissed the Petition at the stage of admission without addressing the contentious issues involved in the matter.

7. In our opinion it was expected of the learned Single Judge to have examined the facts brought on record in order to appreciate as to whether the findings arrived at by the Labour Court, Pune, were just and proper that the Appellant is not the workman as defined under Section 2(s) of the I.D. Act. The

order passed by the learned Single Judge is cryptic and it is difficult for us to appreciate the decision taken by the learned Single Judge to dismiss the Petition in limine as the impugned order passed by the learned Single Judge speaks for itself.

8. Therefore, we quash and set aside the impugned order and remit the matter to the learned Single Judge to hear the matter afresh from the stage of admission itself and pass appropriate orders. We will highly appreciate if the learned Single Judge while dealing with the matter will also address on the issues involved in the Petition on the basis of facts brought on record in evidence before the Labour Court, Pune, for the purpose of forming an opinion such as "no case is made out to interfere with the impugned order" and "the view taken by the Court below is the reasonable and possible view."

9. The Letters Patent Appeal is allowed in the aforesaid terms with no order as to costs. Parties are directed to appear before the learned Single Judge on 02.08.2007 to enable the Court to fix a date for listing the case for admission. Registrar (Judicial) to get the matter listed before the appropriate Bench.

[J.N. PATEL, J.]

[A.A. SAYED, J.]